



20147

DAG/JH  
#10**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Application of:  
**RANDI LYNN SCHINDLER**  
 Serial No. 09/152,992  
 Filed: September 14, 1998

ABANDONED

**RECEIVED**

MAY 18 2005

**OFFICE OF PETITIONS**

**MAIL STOP PETITION**  
**FEE**  
 Commissioner for Patents  
 P.O. BOX 1450  
 ALEXANDRIA, VA 22313-1450

Sir:

**PETITION FOR ACCESS TO ABANDONED APPLICATION**

05/17/2005 SZEWDIE1 00000023 09152992

01 FC:1464

130.00 OP

37 CFR §1.14(h)

**PETITION**

1. Access to the application file record of the above identified ABANDONED application, which is not within the file jacket of a pending Continuing Prosecution Application, is sought under 37 CFR §1.14(h) in view of the following special circumstances. My law firm has been sued for malpractice in connection with our representation of the inventor in litigation captioned RANDI BLACK v KLEIN-BERG & LERNER, LLP, et al. in the SUPERIOR COURT OF THE STATE OF CALIFORNIA, COUNTY OF LOS ANGELES, Case No. BC332335, the first two pages of which are attached hereto.

**PETITION FEE**

The petition fee of \$130.00 as provided in 37 CFR §1.17(h) is enclosed herewith.



MARVIN H. KLEINBERG  
Reg. No.: 18,402 ✓

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FILED

LOS ANGELES SUPERIOR COURT

APR 28 2005

JOHN A. CLARKE, CLERK

S. Hall

BY S. GABE, DEPUTY

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MAY 18 2005

CIT/CASE: BC332335 LEA/DEF#:

RECEIPT #: CCH458224049

MTE PAID: 04/22/05 03:06:17 PM

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0310

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5 Attorneys for Plaintiff,  
 6 RANDI L. BLACK

OFFICE OF PETITIONS

7 Case assigned  
 8 to Judge

9 ERNEST HIROSHIGE  
 SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

10 RANDI L. BLACK, an Individual,

CASE NO.: BC 332335

11 Plaintiff,

COMPLAINT FOR:

12 v.

D-54

13 KLEINBERG & LERNER, LLP, a Limited  
 14 Liability Partnership, MICHAEL HUREY,  
 15 an Individual, and DOES 1 through 25,  
 inclusive.

- 1.) Legal Malpractice
- 2.) Breach of Fiduciary Duty
- 3.) Fraud
- 4.) Breach of Contract

16 Defendants,

17 Plaintiff, RANDI L. BLACK, alleges as follows:

## GENERAL ALLEGATIONS

19 1. Plaintiff, RANDI L. BLACK, previously known as Randi L. Schindler (hereina  
 referred to as "BLACK" or "Plaintiff"), is, and at all times mentioned herein was, an individual  
 residing in the County of Los Angeles, State of California and within this Court's jurisdiction.

20 2. Plaintiff is informed and believes and thereon alleges that Defendant,  
 KLEINBERG & LERNER, LLP ("KLEINBERG LERNER"), was at all times mentioned herein a  
 Limited Liability Partnership engaged in, and properly and duly licensed in the practice of law in  
 the County of Los Angeles, State of California.

21 3. Plaintiff is informed and believes and thereon alleges that Defendant,  
 KLEINBERG LERNER, was at all times mentioned herein a law practice engaged in, and  
 properly and duly licensed in, the practice of "Patent, Trademark, Copyright, Unfair Competition

ORIGINAL

1 & Related Intellectual Property Matters."

2 4. Plaintiff is informed and believes and thereon alleges that Defendant, MICHAEL  
3 HUREY ("HUREY"), was at all times mentioned herein an attorney at law, practicing in, engaged  
4 in, and properly and duly licensed in the County of Los Angeles, State of California.

5 5. Plaintiff is informed and believes and thereon alleges that HUREY was at all times  
6 mentioned herein employed by and/or a partner with KLEINBERG LERNER.

7 6. Plaintiff is informed and believes and thercon alleges that HUREY, was at all  
8 times mentioned herein an attorney engaged in, and properly and duly licensed in, the practice of  
9 Patent, Trademark, Copyright, Unfair Competition & Related Intellectual Property Malters.

10 7. Plaintiff is ignorant of the true names and capacities of Defendants sued herein as  
11 DOES 1 through 25, inclusive, and therefore sues these Defendants by such fictitious names.  
12 Plaintiff will amend this complaint to allege their true names and capacities when ascertained.

13 Plaintiff is informed and believes and thereon alleges that each of the fictitiously named  
14 Defendants is negligently responsible in some manner for the occurrences herein alleged, and that  
15 Plaintiff's losses as herein alleged were proximately caused by such negligence.

16 8. Plaintiff is informed and believes and thereon alleges that in performing the acts  
17 hereinafter alleged, Defendants, and each of them, were acting as the agents and representatives of  
18 each of the other named Defendants, and in performing said acts, the Defendants, and each of  
19 them, were operating within the scope of their real and/or apparent authority as agents, and each  
20 of the Defendants named herein ratified, approved and caused the acts of the other Defendants  
21 which are hereinafter alleged.

22 9. In or about early September 1998, Plaintiff retained Defendants, and each of them,  
23 to draft, file and prosecute a patent application on Plaintiff's behalf in the U.S. Patent &  
24 Trademark Office ("PTO").

25 10. Defendants filed said patent application on Plaintiff's behalf on or about  
26 September 18, 1998 under Serial Number: 09-152,992 ("Subject Application").

27 11. Plaintiff is the sole inventor of the invention identified in the Subject Application.

28 12. On November 9, 1999, the PTO issued a Notice of Abandonment pertaining to the